

Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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OCT 15 1998

In re Application of)
)
AMERITECH CORPORATION,)
Transferor,)
)
AND)
)
SBC COMMUNICATIONS INC.,)
Transferee.)
)
For Consent to Transfer Control of)
Corporations Holding Commission Licenses)
and Authorizations Pursuant to Sections 214)
and 310(d) of the Communications Act and)
Parts 5, 22, 24, 25, 63, 90, 95 and 101)
of the Commission's Rules)

CC Docket No. 98-141

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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TO: The Commission

COMMENTS OF PILGRIM TELEPHONE, INC.

Pilgrim Telephone, Inc. ("Pilgrim"),¹ by counsel and pursuant to *SBC Communications, Inc. and Ameritech Corporation Seek FCC Consent for a Proposed Transfer of Control and Commission Seeks Comment on Proposed Protective Order Filed By SBC and Ameritech*, DA 98-1492, Public Notice, rel. July 30, 1998 ("Public Notice"), hereby files its Comments asking for conditions to be imposed upon any grant of the above-captioned Application for consent to transfer control jointly filed by SBC Communications, Inc.

¹ Pilgrim is an interstate interexchange carrier providing common carrier services pursuant to tariffs on file with the Commission. Pilgrim Tariff FCC No. 1, effective March 7, 1995, and previous versions. Pilgrim offers a variety of common carrier services, including 1+ (where available), collect calling, 0+ (generally via 800-number access), and teleconferencing services. Pilgrim also provides a number of enhanced and/or information services, including specialized teleconferencing, voice mail, voice store and forward, and information or entertainment services.

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("SBC") and Ameritech Corporation ("Ameritech") under Sections 214 and 310(d) of the Communications Act, of 1934, as amended, 47 U.S.C. § § 214 and 310(d) (the "Application"). Through the Application, SBC and Ameritech have requested Federal Communications Commission ("Commission") approval of the transfer of control to SBC of licenses and authorizations controlled or requested by Ameritech or its affiliates or subsidiaries as a result of a proposed merger of SBC and Ameritech. By the proposed merger, Ameritech would become a wholly owned subsidiary of SBC.²

Pilgrim is a customer of Ameritech's billing and collection services for its casual access services.³ As an interested entity, Pilgrim proposes that if the Application is granted, it be conditioned on compliance with good competitive practices. The proposed conditions are necessary to inhibit anti-competitive behavior and discriminatory pricing in the billing and collection services arena. The need for the conditions is specifically warranted by Ameritech's recent change in policies which evidenced a shift from pro-competitive to anti-competitive behavior, including institution of policies mirroring policies imposed by SBC on its billing and collection customers, immediately following the public announcement of the proposed merger.⁴ In light of the SBC influenced shift, Pilgrim is particularly concerned that

²Pursuant to the Federal Communications Commission's Order released on September 1, 1998, which established October 15, 1998, as the date by which interested parties must file comments in this proceeding, these Comments are timely filed. Order, CC Docket No. 98-141, rel. September 1, 1998.

³Ameritech and Pilgrim are parties to an agreement whereby Ameritech Illinois, Ameritech Indiana, Ameritech Michigan, Ameritech Ohio, Wisconsin Bell, Inc., dba Ameritech Wisconsin, and Ameritech Services, Inc. provide billing and collection services to Pilgrim (the "Billing and Collection Agreement").

⁴SBC's policies include a restriction on the content of Pilgrim's customers' discussions. As a common carrier, the Commission forbids Pilgrim control over the content of its customers' calls. For this reason alone, the Commission must act to eliminate the content

Ameritech will continue its campaign to impose anti-competitive conditions on its customer-competitors on a larger scale after its merger with SBC.

Pilgrim asks that the Commission condition grant of the Application on 1) the elimination of any SBC or Ameritech policy which restricts lawful content provided by a customer of a casual calling company and 2) the non-discriminatory provision of billing and collection services, especially collect and other casual calling services. Without the requested conditions, billing and collection services provided to communications service providers will be constrained and the choices of services available to consumers in the marketplace will be restricted.

1. The proposed merger will increase Ameritech's potential to engage in anti-competitive behavior and discriminatory pricing for billing and collection services.

Incumbent local exchange carriers ("ILECs") and competitive local exchange carriers ("CLECs") already have a significant competitive advantage in billing and collection for interexchange ("IXC") services. Casual access providers like Pilgrim are completely dependent on the LECs for the provision of these services, because only the local exchange carriers ("LECs") have a direct billing relationship with their local customers. Like other providers of casual calling services, Pilgrim does not have an on-going relationship with its customers. As calls are received, the charges are tallied and tendered to the appropriate LEC for billing to the customer. Pilgrim does not have and cannot create a billing database, as the LECs do not make billing name and address ("BNA") information available on a real-

restrictions.

time basis.⁵ Casual calling customers, for example, a party receiving a collect call, is typically not a long-term customer of the carrier, and so the carrier does not have and cannot maintain a meaningful database of its customers.

By the limitations imposed on billing and collection services, SBC, through Ameritech is attempting to secure an unfair competitive advantage, as it prepares to enter the IXC marketplace. Non-subscribed services, such as collect calling, provide a market entry opportunity for new carriers. The entrance of new carriers in the IXC market increases competition, something that the LECS, including SBC and Ameritech, have professed to support and which the Commission undoubtedly is bound to support.

Particularly in the casual calling circumstance, billing and collection is an essential facility. LEC control over billing and collection services, without restriction, grants to the LECs an insurmountable marketplace advantage and a means by which to eliminate any viable competitor, leaving the LEC bill for LEC provided IXC and other services. The Commission cannot countenance SBC's and now Ameritech's anti-competitive behavior. Any grant of the Application must be conditioned on the non-discriminatory provision of billing and collection services.

⁵The information which is available is dated, as the LECs delay provision of the information. The LECs fail to update the BNA information and the LECs do not provide BNA for unlisted numbers, which can account for as much as thirty percent (30%) of all local exchange listings.

2. Ameritech's recent anti-competitive activity.

In Ameritech's recent Comments filed on July 25, 1997, in opposition to MCI Telecommunications Corporation's Petition for Rulemaking Regarding Billing and Collection Services Provided by Local Exchange Carriers for Non-Subscribed Interexchange Services, RM No. 9108 before the Commission, Ameritech assured the Commission that it did not intend to discontinue the provision of billing and collection services or of imposing discriminatory conditions on its billing and collection services. Specifically, Ameritech stated the following to the Commission:

Ameritech hereby opposes the petition of MCI requesting that the Commission initiate a rulemaking to impose a nondiscrimination requirement on local exchange carriers' ("LECs") provision of billing and collection services for "non-subscribed" interexchange services. While Ameritech has no current intention of discontinuing the provision of billing and collection services with respect to these types of calls or of imposing discriminatory conditions on its services in that regard, it must oppose the request. (emphasis added).

On August 6, 1998, however, Ameritech notified Pilgrim by letter that it did not intend to renew its Billing and Collection Agreement with Ameritech.

In recent months other questionable activity by Ameritech has been brought to the Commission's attention. Specifically, the Commission found that Ameritech's acquisition of the assets of three alarm companies, Central Control Alarm Corp., Norman Systems Securities, Inc. and Masada Security, Inc., violated Section 275(a)(2) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the "Act"). *In the Matter of Enforcement of Section 275(a)(2) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, Against Ameritech Corporation, Memorandum Opinion and Order and Order to*

Show Cause, CCBPol 97-7 (rel July 8, 1998). Furthermore, the Commission recently issued a “standstill order” requested by AT&T Corp. and MCI Telecommunications Corporation in response to Ameritech’s entry into a “teaming” agreement with Qwest Communications Corporation. *AT&T Corp., et al., v. Ameritech Corporation*, File No. E-98-41 (rel June 30, 1998). The Commission issued the standstill order because it found that there were legitimate questions as to whether Ameritech was providing interLATA services in violation of Section 271 of the Act and whether Ameritech was in violation of its equal access and non-discrimination obligations under Section 251(g) of the Act. *Id.*

Ameritech’s apparent disregard of its record assurances made to the Commission regarding billing and collection services and other questionable activities do not evidence good faith on the part of Ameritech.

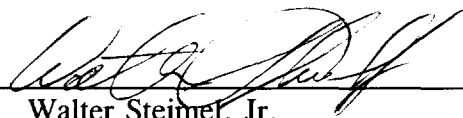
CONCLUSION

For the foregoing reasons, the Commission should condition any grant of the Application on the non-discriminatory provision of billing and collection services, especially with respect to billing casual calling services. Additionally, the Commission should condition any grant of the Application on the elimination of any content restrictions SBC or Ameritech attempt to impose on billing and collection customers.

Respectfully submitted,

PILGRIM TELEPHONE, INC.

By: _____


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October 15, 1998